

**EXTRACTS FROM THE REPORT**

*Of the Committee of the House of Representatives, appointed to investigate the affairs of the Bank of the United States.*

[Presented May 22, 1834.]

Under a deep sense of respectful obedience to the decision of the House of Representatives thus solemnly expressed, and feeling that they had no right to question its justice or propriety, your committee proceeded to Philadelphia on the 22d April, to commence the performance of their duties.

On the 23d of April, their Chairman addressed to the President of the Bank, a communication, enclosing a copy of the resolution of the House of Representatives, and notifying him, of the readiness of the committee to visit the Bank on the ensuing day, at any hour agreeable to him. In reply, the president informed the committee that the papers thus received should be submitted to the Board of Directors, at a special meeting to be called for that purpose. It appears, in the Journal of the proceedings of the committee, herewith presented to the House, that this was done, and that the Directors appointed a committee of seven of their Board, to receive the committee of the House of Representatives, and to offer for their inspection, such books and papers of the Bank, as may be necessary to exhibit the proceedings of the corporation, according to the requirement of the charter. In the letter of John Sergeant, Esq., as Chairman of the committee of Directors, communicating the proceedings of the Board, he says that he was directed to inform the chairman of this committee, that the committee of the Directors "will immediately direct the necessary arrangements to be made for the accommodation of the Committee of the House of Representatives," and would attend at the Bank to receive them the next day, at 11 o'clock. Your committee attended, and were received by the Committee of Directors.

Up to this period, nothing had occurred to justify the belief that a disposition was felt, on the part of the managers of the Bank, to embarrass the proceedings of the committee, or have them conducted differently from those of the two preceding committees of Investigation. On assembling, however, the next morning, at the Bank, they found the room which had been offered for their accommodation, pre-occupied by the committee of the Board, with the President of the Bank, as an *ex officio* member, claiming the right to be present at the investigations and examinations of this committee. This proceeding the committee were not prepared to expect. When the appointment of the committee of seven was first made, it was supposed that that measure, however designed, was not well calculated to facilitate the examination.

The officers of the Bank were believed to be the most appropriate agents of the Board of Directors to exhibit their books and papers. By them the entries in the books are made, and by them such entries are most readily explained. It is their duty too, to be daily at the Banking house, and on that account they could assist the examination more readily than the Committee of Directors.

These objections to the special agents of the Board, were felt and expressed, but they were waived, and no disposition had been manifested or felt by your committee, to conduct the examination in any manner not entirely acceptable to the board.

Contemplating an extended investigation, but unwilling that an apprehension should exist of improper disclosures being made of the transactions of the Bank and its customers, your committee, following the example of the committee of 1832, adopted a resolution declaring that their proceedings should be confidential, until otherwise ordered by the committee, and also a resolution that the committee would conduct its investigations "without the presence of any person not required or invited to attend." A copy of these resolutions was furnished to the committee of Directors, in the hope that the exclusive control of a room at the Bank, during its hours of business, would thereafter be conceded to your committee, while the claim of the committee of Directors to be present when their books were submitted for inspection, should be postponed for decision, when the books were called for and produced by them.

On the 28th ult. this committee assembled at the banking house, and again found the room they expected to find set apart for their use, pre-occupied by the committee of Directors, and others, officers of the Bank. And instead of such assurances as they had a right to expect, they received copies of two resolutions adopted by the Board of Directors, in which they were given to understand that their continued occupation of the room must be considered a favor, and not a matter of right; and in which the Board indulge in unjust commentaries on the House of Representatives; and intimate an apprehension that your committee design to make their examinations secret, partial, unjust, oppressive, and contrary to common right.

When this communication had been read, your committee adjourned to meet at their own chamber, at the North American Hotel. Notwithstanding all that had occurred, the correspondence with the committee of Directors was continued. If in so doing an error was committed, let it be imputed to the belief that great forbearance well became the committee of the immediate representatives of the People.

While it was thus doubtful whether a room could be obtained in the banking house, without conditions being attached derogatory to the rights and dignity of the House, and a concession in advance of a claim set up by the Bank, which might seriously incommode your committee in their business, they determined to execute your resolution, if practicable, without intruding on the Directors of the Bank; they therefore, required of the President and Directors, in writing, to submit for the inspection of the committee, at their committee room, on the 3d day of May, certain books and papers of the Bank, which might have been thus produced without interruption to the ordinary business of the Bank. The requisition, in terms implied the presence of the Directors or their committee.

On the day named, the Board addressed a written communication to the committee, declaring, "that they cannot comply with that part of the resolution of the committee of investigation, which requires that certain books of the Bank be sent to the North American Hotel, this day, at 11 o'clock."

Having failed to accomplish the object of procuring the books of the Bank for inspection, at their committee room, your committee felt it to be their duty to demand their submission for that purpose, at the Bank of the President and Cashier of the Bank, the usual and general agents of the corporation. For that purpose, on the 5th day of May, having apprised the committee of directors of their intention, at one o'clock they repaired to the Bank and then required the President and Cashier, each of them respectively, to produce certain of the books of the Bank, for inspection of the committee. This was refused by each of those officers, for the reasons stated in writing, and to be found in the appendix to this report.

In this refusal your committee believe there was a substantial violation of the Bank charter, and a contempt against the authority of the House committed.

They are of opinion that your committee were under no obligation of right to recognize any agent of the Bank other than those generally known as such, and make their duty and right to inspect the books depend on the convenience or caprice of such deputation.

If such be the fact, then the examinations of the Bank will, in all cases, depend on the disposition of the Directors to have their proceedings examined.

Having been thus denied, by the officers of the Bank, and having been informed by the Directors, that they were not aware of having declined to furnish a room for the exclusive use of the committee, your committee, sincerely desirous to meet the wishes and directions of the House, believed it to be their

duty to seek another interview with the committee of Directors, and by arrangement, met the committee of the Board, at the Bank, on the 7th day of May, at an hour fixed by themselves.

Your committee then and there, in writing, required of the Committee of the Board, to produce to your committee for inspection, certain books and papers of the Bank, to enable your committee to inquire into the truth of representations made by the Government Directors to the President of the United States and to Congress; to ascertain whether the Board of Directors had violated the charter of the Bank, by authorizing the exercise of illegal powers by their committee of officers, and whether the Bank had any agency, through its management or money, in producing the present pressure, or has used its corporate power or money to control the press, to interfere in politics, or influence elections.

Without giving a specific answer to these calls for books and papers, the committee of Directors presented a written communication which was said to be "indicative of the mode of proceeding deemed right by the Bank."

The Committee of the Board in that communication, express the opinion, that the inquiry can only be rightfully extended to alleged violations of the charter, and deny virtually the right of the House of Representatives to authorize the inquiries required in the resolution.

They also required of the Committee of Investigation, "when they asked for books and papers, to state specifically in writing, the purposes for which they are proposed to be inspected; and if it be to establish a violation of the charter, then to state specifically in writing, what are the alleged or supposed violations of charter, to which the evidence is alleged to be applicable."

To this extraordinary requirement, made on the supposition that your committee were charged with the duty of crimination, or prosecution for criminal offences, and implying a right on the part of the Directors to determine for what purpose the inspection should be made, and what books or papers should be submitted to inspection, your committee replied, that they were not charged with the duty of criminating the Bank, its Directors, or others; but simply to inquire amongst other things, whether any prosecution in legal form should be instituted, and from the nature of their duties, and the instructions of the House of Representatives, they were not bound to state specifically in writing any charges against the Bank, or any special purpose for which they required the production of the books and papers for inspection.

A specific answer was requested to the calls which had been made.

The Committee of the Board, after deliberation, made a communication to your committee, in writing, in which they announced their purpose to adhere to their resolution, and refused to submit the books and papers of the Bank required by your committee to be produced for their inspection.

These calls were made in the Bank, and in the presence of the Committee of the Board, and then and there a compliance with them was refused. Not feeling authorized to regard this unexpected and unequivocal refusal as the act of the Board of Directors, your committee submitted the proceedings of their committee to the Board, and they were by the Board "fully approved and sanctioned."

In this act of refusal, which nothing that had occurred had prepared them to anticipate, your committee are of opinion, that the charter of the Bank was violated, and a contempt of the authority of the House of Representatives committed.

Your committee, acting under the instructions of the House of Representatives, without power to modify or enlarge them, charged to inquire, and not authorized to accuse or to arraign, except in their report to the House itself; armed with but the limited authority of a committee, unauthorized to punish, were necessarily compelled to the conclusion, that, in the face of the obstructions already detailed, they could not efficiently prosecute the inquiries with which they were charged, without the aid of the power of the House of Representatives.

Anxious, however, to perform their duty without complaint to the House, and in conformity with the proceedings of the Committee of Investigation of 1819 and 1832, your committee called on the Bank, in a series of resolutions, to furnish statements, and certain extracts and copies from their books and papers, which, in the opinion of your committee, were all intimately connected with their duties, and many of them indispensable to afford to the House of Representatives the information which they had directed your committee to obtain.

The first of these was responded to by the Committee of Directors, and the information furnished. Though useful, it was comparatively unimportant.

The Board of Directors, after deliberation, refused to comply with the other calls, for reasons which will be found in their resolution in the Appendix, and which reasons deserve examination, as manifesting the deliberate purpose of the Directors to resist all attempts to examine into the proceedings of the corporation in the latitude required by your resolution.

They say, that the Board of Directors do not feel themselves at liberty to comply with the requirement of the Committee of Investigation, because "part" of the copies called for "relate to matters over which the Board have no control."

This reason, it is plain, cannot have had much weight in producing the decision of the Board. If only a part of the information desired was beyond the control of the Board, that fact could have been stated, and this committee would have cheerfully received the residue.

2d. The Board say, they cannot comply, because it would be impossible for them to do so "within any reasonable time, having ascertained, by a careful examination, that the copies and statements called for by the resolutions of the 29th ultimo alone, would require the uninterrupted labor of two clerks for at least ten months."

This reason it is also fair to presume, could not have materially influenced the decision of the Board. If in truth, an entire compliance with all the resolutions would require great labor, still that did not justify the refusal to comply with any one of them. Besides, the whole objection could have been obviated by the employment of more clerks than two, the compensation to whom, if paid either by the Bank or this committee, would have been well expended in gratifying the requirement of the House of Representatives.

3d. The Board say they cannot "comply, inasmuch as in respect to a part of the papers called for, the effect would be the same as the surrender of their books and papers to a secret and *ex parte* examination."

Who can read this last reason for refusing, given by the Directors and fail to perceive that this committee is justified in declaring, that without the aid of *compulsory process*, they cannot obey the directions of the House. If extracts from their own books, made by their own clerks, will not be furnished, because they might be used to conduct an *ex parte* examination, what benefit could this committee expect to derive by access to the Books themselves?

Permission to take extracts for themselves could, and probably would, be denied for the same reasons; and a committee of the House, without power to compel obedience to its demands, would have power to make no use of the books, which was not approved by the Directors themselves. And the House will be at no loss to determine what latitude they would be willing to give their inquiries. And without authentic extracts, such as were unhesitatingly furnished by the Bank to both the former Committees of Investigation, your committee could very imperfectly convey to the House the grounds of their conclusions, or the result of their inspection and examination.

In what condition, then, is your committee placed? The House have commanded them to inquire "what corruptions and abuses have existed in the management of the Bank," whether "it has used its corporate power, or money, to interfere in politics, or influence elections."

To do this, they have attempted to use the only means that can by possibility, enable them to fulfil this duty; and they are refused by the Directors access to those means which are in their custody, and which by their charter, they are bound to furnish.

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Believing they had now exhausted in their efforts to execute the duty devolved upon them, all reasonable means depending solely upon the provisions of the Bank charter, to obtain the inspection of the books of this corporation, your committee were at last reluctantly compelled to resort to the subpoena which had been furnished to them under the seal of this House, and attested by its Clerk. They, thereby, on the 9th inst. directed the Marshal of the Eastern District of Pennsylvania to summon Nicholas Biddle, President, and thirteen other persons, Directors of the Bank, to attend at their Committee room, on the next day, at 12 o'clock, at noon, to testify concerning the matters of which your committee were authorized to inquire, and to bring with them certain books therein named for inspection. The Marshal served the summons in due form of law, and at the time appointed, the persons therein named appeared before the committee and presented a written communication signed by each of them, as the answer of each to the requirements of the subpoena, (which is in the appendix of this report.) In this paper they declare "that they do not produce the books required, because they are not in the custody of either of us, but as has been heretofore stated, of the Board," and add, "considering that as corporators and directors, we are parties to the proceeding—we do not consider ourselves bound to testify, and therefore respectfully decline to do so."

Your committee will not dwell long to answer these technical excuses for this contempt of the lawful mandate of the House. They are to be found at large in the written document above referred to. Most of them it is believed, have been already satisfactorily answered. The two novel excuses herein set forth, cannot but be condemned as insufficient. The first is founded on a very refined distinction between the power of the Directors as persons and as corporators. The same persons have and have not power to submit the books. As corporators, the custody of the books is in them; but as individuals although collectively assembled, the same books are not under their control. Thus by an attenuated technicality, the lawful authority of the House is to be defied. It, in one room of the Bank they must be esteemed as "individual citizens," who may lawfully disregard a subpoena duces tecum, because they have not the book demanded—if, in another room of the same house, by a transmigration not known to Heathen philosophy, their identity is gone; they have become mere ideal creatures on which not even a subpoena ad testificandum can be served. To make this excuse still more extraordinary, let it be remembered that seven of the gentlemen by whom it is offered, had been appointed by the Board of Directors to exhibit the books of the Bank for inspection, and of course must have had the right to that exclusive possession for that purpose.

The reason assigned for the refusal to be sworn is parallel with that which has just been considered—that, as corporators and Directors, they are parties to the proceedings of the House, and therefore not bound to give testimony. It is a humane rule to be found in the criminal law, which declares that no man shall be compelled to criminate himself, and one which this committee would be unwilling, under any circumstances, to deny, but your committee are not aware of any principle of evidence which will excuse a person for refusing to give testimony, simply because it may subject him to a civil action.